IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 2781 of 2007

For Approval and Signature:

HONOURABLE MS.JUSTICE H.N.DEVANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MR. JAYANTILAL DUDHABHAI PARMAR, AUTHO.OFFICE & DEPUTY- - Applicant(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR INDRAVADAN PARMAR for petitioner
MR ME MENGDEY, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 1,
MR MRUGESH JANI for Respondent(s) : 2,

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CORAM : HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 05/12/2007

ORAL JUDGMENT

1. By this application under Section 482 of the Code of Criminal Procedure, 1973 (the Code), the petitioner seeks quashing of the First Information Report registered as Satellite Police Station I - Cr.R. No.205/2007 lodged by one Keshavbhai Hajarilal Rathod, respondent No.2 herein.

2. The petitioner, a Deputy Regional Manager of the Bank of Baroda is an Authorized Officer of the Bank as defined under Section 2(a) of the Security (Enforcement) Rules, 2002 for taking recourse under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (the Securitisation Act) and some other Acts. It appears that the Bank had granted certain credit facilities to the complainant and his wife and had inter alia created a charge of equitable mortgage on an immovable property being Flat No.A-1, Neejdham Apartment, Satellite, Ahmedabad. As the complainant and his wife did not make payments of the credit facilities availed by them, the Bank inter alia took recourse to the provisions of the Securitisation Act. It appears that the dispute leading to the lodging of the complaint in question arose when the petitioner, while taking recourse to the provisions of the Securitisation Act, proceeded to take possession of the aforesaid immovable property.

3. However, during the pendency of the petition, the parties have amicably settled the dispute. The respondent No.2 complainant has filed an affidavit dated 31st October, 2007 stating that, in view of the settlement,

he is not interested in pursuing or pressing for the continuity of the FIR / Complaint lodged by him. He has also categorically stated that, as the disputes have been amicable resolved, he may be unable to support the prosecution. He has also stated that he has no objection if this Court quashes the FIR/Complaint registered as Satellite Police Station I – Cr.R. No.205/2007, so as to secure the ends of justice.

4. Heard, Mr.Indravadan Parmar, learned Advocate for the petitioner, Mr.Mrugesh J.Jani, learned Advocate for the respondent No.2 – complainant and Mr.M.R.Mengdey, learned Additional Public Prosecutor for respondent No.1 – State of Gujarat.

5. In view of the facts noted hereinabove and more particularly, the affidavit of the complainant, as well as the statements and submissions of the learned Advocates appearing for the parties, this Court is of the view that no fruitful purpose would be served if the complaint is pursued any further and is, therefore, required to be quashed.

6. In the result, the petition succeeds and is, accordingly, allowed. The First Information Report registered as Satellite Police Station I Cr.R. No.205/2007 is quashed. Rule is made absolutely accordingly.

[HARSHA DEVANI, J.]

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